

GENERAL TERMS AND CONDITIONS OF CONSTRUCTION

AACC's General Terms and Conditions of Construction will be used in conjunction with the General Terms and Conditions of Contract and with the AIA Documents. If terms and conditions are duplicated, the most stringent would apply.

*Anne Arundel
Community College*

Table of Contents

Section 1 – Definitions and Responsibilities	1
1.1 DEFINITIONS.....	1
1.2 OWNER’S RESPONSIBILITIES.....	3
1.3 CONTRACTOR’S RESPONSIBILITIES	3
Section 2 – Contract Documents	5
2.1 CONTRACT DOCUMENTS	5
2.2 SHOP DRAWINGS	6
2.3 PERFORMANCE AND PAYMENT BONDS (Required when initial contract exceeds \$100,000.00).....	8
Section 3 – Scope of Work	9
3.1 INTENT OF THE CONTRACT DOCUMENTS	9
3.2 GENERAL CONDITIONS CONTROLLING.....	9
3.3 DIFFERING SITE CONDITIONS	9
3.4 SITE INVESTIGATION	9
3.5 CONDITIONS AFFECTING THE WORK.....	10
3.6 CHANGES.....	10
3.7 MODIFICATION OF CONTRACT PRICE.....	11
3.8 UNAUTHROIZED WORK	13
Section 4 – Control of the Work.....	14
4.1 AUTHORITY OF THE PROJECT MANAGER.....	14
4.2 CONFORMITY WITH CONTRACT REQUIREMENTS	14
4.3 ADJACENT WORK.....	14
4.4 CONTROL BY THE CONTRACTOR.....	14
4.5 COOPERATION WITH UTILITIES	15
4.6 AUTHORITY AND DUITES OF PROJECT MANAGER.....	15
4.7 INSPECTION OF THE WORK	16
4.8 REMOVAL OF DEFECTIVE WORK	16
4.9 MAINTENANCE OF WORK DURING CONSTRUCTION	16
4.10 FAILURE TO MAINTAIN ENTIRE PROJECT.....	17
4.11 COLLEGE’S RIGHT TO DO WORK.....	17
Section 5 – Materials	18
5.1 GENERAL	18
5.2 STORAGE AND HANDLING OF MATERIALS	19
5.3 SUBSTITUTIONS.....	19
5.4 APPROVED EQUALS	19
5.5 CONTRACTOR’S OPTIONS	20
Section 6 – Legal Relations and Responsibilities	21
6.1 INSURANCE REQUIREMENTS	21

6.2	COMPLIANCE WITH LAWS	21
6.3	PERMITS AND LICENSES.....	21
6.4	DISPUTES	21
Section 7 – Prosecution and Progress of the Work		23
7.1	NOTICE TO PROCEED.....	23
7.2	EXECUTION OF WORK.....	23
7.3	PUBLIC CONVENIENCE AND SAFETY	23
7.4	BARRICADES AND WARING SIGNS	23
7.5	PRESERVATION PROTECTION AND RESTORATION OF PROPERTY.....	24
7.6	PROGRESS SCHEDULE.....	24
7.7	SUSPENSION OF WORK	25
7.8	TERMINATION FOR CONVENIENCE OF THE COLLEGE	26
7.9	TERMINATION FOR DEFAULT – DAMAGES FOR DELAY – TIME EXTENSIONS	29
7.10	PARTIAL ACCEPTANCE.....	30
7.11	LIQUIDATED DAMAGES.....	31
7.12	SUBSTANTIAL COMPLETION AND FINAL INSPECTION	31
7.13	CLEANING UP	31
7.14	GUARANTEES	31
7.15	NOTICE TO COLLEGE OF LABOR DISPUTES.....	32
Section 8 – Payments.....		33
8.1	SCOPE OF PAYMENT	33
8.2	ALLOWANCES	33
8.3	DEDUCTIONS FOR UNCORRECTED WORK.....	33
8.4	PAYMENTS WITHHELD	34
8.5	CORRECTION OF WORK BEFORE FINAL PAYMENT	34
Section 9 – Employees, Subcontractors & Work Conditions		35
9.1	EMPLOYEES AND WORKMANSHIP.....	35
9.2	NON-DISCRIMINATION IN EMPLOYMENT	36
9.3	SUBCONTRACTS	37
9.4	CONSTRUCTION SAFETY AND HEALTH STANDARDS.....	37
9.5	DRUG AND ALCOHOL FREE WORKPLACE	37
9.6	SEXUAL HARASSMENT	37
9.7	NON-HIRING OF EMPLOYEES	38

Anne Arundel Community College

General Terms and Conditions of Contract

Section 1 – Definitions and Responsibilities

1.1 DEFINITIONS

- A. Approved Equal: Those supplies or services or compatible items of construction whose quality, design or performance characteristics are functionally equal or superior to an item specified.
- B. Change Order: A contract modification signed by the responsible Owner's Representative, directing a Contractor to make changes.
- C. Contract: The written agreement executed between the College and the successful bidder, covering the performance of the work and furnishing of labor, services, equipment, and materials, and by which the Contractor is bound to perform the work and furnish the labor, services, equipment and materials, and by which the College is obligated to compensate the Contractor therefore at the mutually established and accepted rate or price. The contract shall be in the form of a purchase order(s) and any and all related contract documents, to include, but not limited to, the College's RFP/RFB, the firm's Proposal/Bid, any and all subsequent correspondence; all required submittals, i.e., certificate of insurance, bonds, etc. as well as any other documents which may be required and mutually agreed upon and negotiated by the college and the successful firm.
- D. The Contractor: The person or organization having direct contractual relation with the College for the execution of the "Work". If the Contractor hereunder is comprised of more than one legal entity, blue such entity shall be jointly and severally liable hereunder.
- E. Project Manager: A person assigned by the College to coordinate the activities of the Contractor with the College.
- F. Contract Time and Completion Date: The number of working or calendar days shown in the construction bid form indicating the time allowed for the completion of the work contemplated in the contract. In case a calendar date of completion is shown in the proposal, in lieu of the number of working or calendar days, such work shall be completed on or before that date.
- G. Critical Path Method (CPM): A scheduling/management tool showing a network of work elements or activities for a construction project.
- H. "Day" or "day": Means calendar day unless otherwise designated.
- I. Jargon: Work described in words that have well-known technical or trade meaning shall be held to refer to such recognized standard use.
- J. "The Owner" or "Anne Arundel Community College" or "AACC" or "The College": Refers to Anne Arundel Community College, a comprehensive community center of higher learning located in Anne Arundel County. In particular, the College refers to the campus or administrative unit of the College or its authorized representative that issues bid information relative to a particular transaction.

- K. Notice to Proceed: A written notice to the Contractor of the date on or before which the prosecution of the work to be done under the contract shall begin.
- L. Payment Bond: The security in the form approved by the College and executed by the Contractor and his surety, and paid for by the Contractor, as a guarantee that he will pay in full all his bills and accounts for materials and labor used in the construction of the work, as provided by law.
- M. Performance Bond: The security in the form approved by the College and executed by the Contractor and his surety, and paid for by the Contractor, guaranteeing complete performance of the contract.
- N. Plans: The official drawings issued by the College as part of the contract documents, including those incorporated in the contract documents by reference.
- O. Purchasing Agent: The person designated by the College to make decisions with respect to the administration of the work. This person will be identified under the Instructions to Firms Submitting Proposals/Bids section of the RFP/RFB as the Contact Point.
- P. “Repair” or “repair”: Where used in these contract documents repair shall be taken to mean to restore after injury, deterioration, or wear; to mend, to renovate by such means as appropriate and to supply such materials and labor as necessary to render the item to be repaired sound, solid, true, plumb, square, even, smooth and fully serviceable. Upon completion of such repair it must be, unless otherwise stated, rendered to such conditions as to present a first class finished work, or in instances where the repaired item serves as a base for additional finish, the repaired work must be such as to permit a first class finish, to be applied without extra cost to the College. When the word “repair” is used in connection with machinery or mechanical equipment it shall mean, in addition to the above, rendering the equipment completely serviceable and efficient ready for normal use for which it was intended originally.
- Q. Subcontractor: As employed herein includes only those having a direct contract with the Contractor. It includes one who furnishes material worked to a special design according to the plans and specifications for the “Work”. It excludes one who merely furnishes material not so worked.
- R. Supplemental Agreement: A written agreement covering added or changed work that is beyond the scope of the contract and the changes clause. A supplemental agreement becomes a part of the contract when approved and properly executed by all parties to the contract.
- S. Work: Work shall be understood to mean the furnishing of all labor, materials, equipment, services, utilities and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed upon the Contractor by the contract.
- T. Written Notice: Shall be deemed to have been duly served if delivered in person to the individual or to the member of the firm or to an office of the corporation to who it is intended, or if delivered to or sent by registered mail, to the last business address known to the one who gives notice.

1.2 OWNER'S RESPONSIBILITIES

- A. The Owner shall furnish all surveys describing the physical characteristics, legal limitations, utility location for the site of the project, and a legal description of the site.
- B. Information or services under the Owner's control shall be furnished by the College with reasonable promptness to avoid delay in the orderly progress of the work.
- C. The Owner shall forward all instructions to the Contractor. Verbal instructions will be confirmed in writing.
- D. The Owner shall permit access to the areas; may permit use of College utilities keep areas adjacent to the equipment free of extraneous material; and, promptly notify the Contractor of any unusual operating conditions during the time when the Contractor is not on the job site.
- E. The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to work by owner or by separate Contractors, payments and completion, and insurance.

1.3 CONTRACTOR'S RESPONSIBILITIES

- A. The Contractor shall supervise and direct the work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the work under the contract.
- B. It is the responsibility of the Contractor to ensure that all work to be performed under the contract to be done in strict compliance with all applicable Federal, State and local laws and regulations. In the event that a provision or specification in the RFP/RFB is in conflict with applicable laws and regulations, the firm must inform the College, indicate such in its Proposal/Bid and propose alterations to the conditions specified.
- C. The Contractor shall be responsible to the College for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the work under a contract with the Contractor.
- D. The Contractor shall not be relieved from his obligations to perform the work in accordance with the contract documents either by the activities or duties of the Project Manager in his administration of the contract, or by inspections, tests, or approvals required or performed by persons other than the Contractor.
- E. The contractor shall confine operations at the site to areas permitted by law, ordinance, permits, and the contract documents, and shall not unreasonably encumber the site with any materials or equipment.
- F. Cutting and Patching Work:
 - 1. The contractor shall be responsible for all cutting, fitting, or patching that may be required to complete the work or to match with like components/material and fit together properly.
 - 2. The contractor shall not damage or endanger any portion of the work or the work of the College or any separate Contractors by cutting, patching or otherwise altering any work or by excavation. The contractor shall not cut or otherwise alter the work of the College

or any separate Contractor except with the written consent of the College and of such separate Contractor. The Contractor shall not unreasonably withhold from the College or any separate Contractor his consent to cutting or otherwise altering the work.

- G. The Contractor shall forward all communications to the College through the Project Manager.
- H. The Contractor shall perform all work in accordance with the lines, grades, typical cross sections, dimensions, and other data required by the contract documents or as modified by written orders, including the furnishing of all materials, services, implements, machinery, equipment, tools, supplies, transportation, labor, and all other items necessary for the satisfactory prosecution and completion of the project in full compliance with the contract documents.
- I. Indemnity
 - 1. The Contractor shall name Anne Arundel Community College as an additional insured, as well as clearly state that it will hold harmless and defend Anne Arundel Community College, its Board of Trustees and its employees from all liability for loss, damage or injury to person(s) or property in any manner arising out of or incident to the performance of the contract, on the Certificate of Insurance.

End of Section 1 – Definitions and Responsibilities

Section 2 – Contract Documents

2.1 CONTRACT DOCUMENTS

- A. The contract documents are complementary.
1. Intent of the documents is to include all work necessary for proper completion of the project ready for continual efficient operation. It is not intended, however, to include any work not properly inferable.
 2. Prior to submittal of a bid or proposal the Contractor should obtain clarification of all questions that may have arisen as to intent of the contract documents or any actual conflict between two or more items in the contract documents. Should the Contractor have failed to obtain such clarification, then the Project Manager may direct that the work proceed by any method indicated, specified, or required by the contract documents in the interest of maintaining the best construction practice. Such direction by the Project Manager shall not constitute the basis for a claim for extra cost by the Contractor. The Contractor acknowledges that he had the opportunity to request clarification prior to submitting his bid to the College and therefore agrees that he is not entitled to claim extra costs as a result of such clarification.
 3. The original copy of the Proposal/Bid must be signed in ink by the Contractor's authorized representative, with the signature in full. When the Contractor is submitting a Proposal/Bid, the person signing shall state under the laws of what State the Contractor was chartered and the names and titles of the Officers having the authority under the by-laws to sign contracts. Post Office address, County and State must be given after the signature. Failure to sign the Proposal/Bid Form may render the Proposal/Bid to be non-responsive.
 4. If a person's name other than an officer, so designated by the Contractor resolution to execute the contract, appears on the contract, it must be stated under oath (notarized) that the individual is the agent of the Contractor and is duly authorized to act for and on behalf on the Contractor.
 5. All documents and contract administration provided by the Contractor shall be to the complete satisfaction of the College. No payment will be made to the Contractor until the documents have been received and approved and the service completed and accepted by the College as responsive to all the College's requirements.
 6. Should there be any conflict between these specifications and the final contract document, the specifications contained herein shall take precedence.
- B. Drawings: The Contractor shall do no work without proper drawings and/or instructions. Drawings are in general drawn to scale and symbols are used to indicate materials and structural and mechanical requirements. When symbols are used those parts of the drawings are of necessity diagrammatic and it is not possible to indicate all connections, fittings, fastenings, etc., which are required to be furnished for the proper execution of the work. Diagrammatic indications of piping, duct work and conduit, and similar items in the work are subject to field adjustment in order to obtain proper grading, fitting passage over, under or past obstructions, to avoid exposure in finished rooms and unsightly and

obstructing conditions. The Contractor shall make these adjustments at no increased cost to the College.

1. Copies Furnished: The College will furnish the Contractor drawings and specifications in electronic format, unless stated otherwise in the RFP/RFB.
 2. Copies at the Site: The Contractor shall keep in the job site office a complete set of all drawings, specifications, shop drawings, schedules, etc., in good order and available to the Project Manager. "As-Built" drawings shall be delivered to the Project Manager in a condition satisfactory to him, as a condition precedent to final acceptance of work. Release of final retainage will be subject to receipt of the as-built drawings.
 3. Ownership: All documents remain the property of the College. They must not be used on other work and they shall be returned to the College upon completion of the work.
- C. Dimensions: The Contractor shall carefully check all dimensions prior to execution of the particular work affected. Whenever inaccuracies or discrepancies are found, the Contractor shall consult the Project Manager prior to any construction or demolition. Should any dimensions be missing, the Project Manager will be consulted and supply them prior to execution of the work. Dimensions for items to be fitted into constructed conditions at the job will be taken at the job and will be the responsibility of the Contractor. The obvious intent of the documents or obvious requirement dictated by conditions existing or being constructed supersedes dimensions or notes, which may be in conflict therewith. Whenever a stock size manufactured item or piece of equipment is specified by its normal size, it is the responsibility of the Contractor to determine the actual space requirements for setting or entrance to the setting space. No extra will be allowed by reason of work requiring adjustments in order to accommodate the particular item of equipment.
- D. Whenever new work, building, addition, or portions thereof are not accurately located by plan dimensions, the Project Manager will supply exact position prior to execution of the work.

2.2 SHOP DRAWINGS

- A. After checking and verifying all field measurements and after complying with applicable procedures specified in the contract documents, Contractor shall submit to the Contractor Administrator for review and approval, in accordance with the Contractor's schedule, shop drawings or other submittals which will bear a stamp or specific written indication that the Contractor has satisfied its responsibility under the contract documents with respect to the review of such submissions. Submittal of shop drawings shall be made at least fourteen (14) days in advance of any required response from the Project Manager in order to provide sufficient time for review. The data on the shop drawing will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable the Project Manager to review the information as required. These drawings shall be prepared in conformity with the best practice and standards for the trade concerned. Due regard shall be given to speed and economy of fabrication and erection.
- B. All shop drawings must show the name of the project and the College's purchase order number for the project.

- C. Size of Drawings: All shop drawings and details submitted to the Project Manager for approval shall be printed on sheets of the same size as the contract drawings prepared by the Project Manager. When a standard of a fabricator is of such size to print more than one drawing on a sheet of the size of the Project Manager's drawings, this is acceptable. Sheets larger than the Project Manager's drawings will not be accepted except when specifically permitted by the Project Manager. Shop detail supplied on a sheet of letter size 8 ½" x 11" is acceptable for schedules and small details.
- D. Items For Which Shop Drawings Will Be Required: Shop drawings will be required for all items which are specifically fabricated for the work or when the assembly of several items is required for a working unit. Shop drawings are required for all reinforcing and structural steel, specially made or cut masonry units, miscellaneous metal work, specially made millwork, plaster molds, or moldings, marble and slate, special rough hardware, and all heating, ventilation, plumbing, and electrical items requiring special fabrication, or detail connections including refrigeration, elevators, dumb waiters, laboratory equipment, ducts, etc.
- E. Copies Required: Contractor shall supply two (2) copies for the Project Manager's file in addition to such copies as the Contractor may desire to be returned for his own use.
- F. Examination and Approval: The Project Manager will examine and return shop drawings with reasonable promptness, noting desired corrections or accepting or rejecting them.
- G. Field and Conditions: The Project Manager is not responsible for the check of dimensions or existing conditions in the field. This is the sole responsibility of the Contractor.
- H. Resubmission: When the Project Manager notes desired corrections or rejects the drawings, the Contractor shall resubmit the drawings with corrective changes. Re-submittals follow same process as submittals.
- I. Contractor's Responsibility: Unless the Contractor has, in writing, notified the Project Manager to the contrary, at the time of submission, the College and Project Manager will assume that the drawings are in conformity with the contract documents and do not involve any change in the contract price or any change which will alter the space within the structure or alter the nature of the building from that contemplated in the contract documents.
- J. Project Manager's Notations: Should the Contractor consider any rejection or Project Manager's notation on the shop drawings to cause an increase in the cost of the work from that contemplated in the contract documents, then the Contractor shall desist from further action relative to the item he questions and shall notify the Project Manager and College in writing, within five (5) days of the additional or less cost involved. No work shall be executed until the entire matter is clarified and the Contractor is ordered by the College to proceed. Failure of the Contractor to serve written notice as above required shall constitute a waiver of any claim in relation thereto. Similarly, should the Project Manager's notation or change involve less work than is covered by the contract drawings, the Contractor shall allow the College an equitable credit resulting from the change in work.

2.3 PERFORMANCE AND PAYMENT BONDS (Required when initial contract exceeds \$100,000.00)

Prior to the award of the contract, the Contractor will provide to the College executed copies of the required Performance and Payment Bond forms as specified in the RFP. The premium for bonds shall be paid by the Contractor. The bonds shall be in full amount of the contract price.

End of Section 2 – Contract Documents

Section 3 – Scope of Work

3.1 INTENT OF THE CONTRACT DOCUMENTS

It is the intent of the contract documents to show all of the work necessary to complete the project.

3.2 GENERAL CONDITIONS CONTROLLING

In event of a conflict between these General Conditions and any other provision of the contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

3.3 DIFFERING SITE CONDITIONS

- A. The Contractor shall promptly, within five (5) days of observing such conditions and before such conditions are disturbed, notify the Project Manager in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract. The Project Manager shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, and equitable adjustment shall be made and the contract modified in writing accordingly.
- B. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in A. above; provided however, the time prescribed therefore may be extended by the College.
- C. No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

3.4 SITE INVESTIGATION

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the College, as well as from information presented by the drawings and specifications made a part of this contract. Any failure by the Contractor to acquaint himself with the available information may not relieve him from responsibility from estimating properly the difficulty or cost of successfully performing the work. The College assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the College.

3.5 CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work and the general and local conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work without additional expense to the College. The Contractor agrees not to place any credence in any understanding or representation concerning conditions made by any college employee or agents prior to the execution of this contract, unless such understanding or representation is expressly stated in the contract.

3.6 CHANGES

- A. The Project Manager unilaterally may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:
 - 1. In the specifications (including drawings and designs);
 - 2. In the method or manner of performance of the work;
 - 3. In the State-furnished facilities, equipment, materials, services, or site; or
 - 4. Directing acceleration in the performance of the work.
- B. Any other written order or an oral order, including a direction, instruction, interpretation or determination, from the Project Manager that causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Project Manager written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.
- C. Except as herein provided, no order, statement, or conduct of the Project Manager shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.
- D. Subject to paragraph (F), below, if any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly; provided, however, that except for requests based on defective specifications, no request for any change under B. above, shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required; and provided further, that in the case of defective specifications for which the College is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.
- E. If the Contractor intends to request an equitable adjustment under this clause, he shall, within thirty (30) days after receipt of a written change order under (1) above, or the furnishing of written notice under (A) above, submit to the Project Manager a written statement setting forth the general nature and monetary extent of request, unless this period is extended by the College. The statement requesting an equitable adjustment may be included in the notice under (B) above.

- F. Each proposed contract modification that affects contract price shall be subject to the prior written approval of the Project Manager and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification on the project budget or the total construction cost. If, according to the certification of the fiscal authority, the contract modification will cause an increase in cost that will exceed budgeted and available funds, the modification may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget. The Project Manager will promptly notify the contractor if insufficient funds are available to proceed with a contract modification.
- G. No request by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

3.7 MODIFICATION OF CONTRACT PRICE

When changes in the work require adjustment of the Contract Price, such modification shall be accomplished as follows:

- A. The Contractor shall promptly submit to the Project Manager a fully itemized breakdown of the quantities and prices used in computing the value of the requested change along with a detailed explanation and justification for the proposed change regardless of the nature of the change.
- B. For all changes in the work to be performed by a subcontractor, the Contractor shall furnish the subcontractor's fully itemized breakdown of quantities and prices, which shall bear the original signature of a representative of the subcontractor authorized to act for the subcontractor. If requested by the College or the Project Manager, proposals from suppliers or other supporting data required to substantiate costs shall be furnished.
- C. Modification of the Contract Price, when required, shall be determined as follows:
 - 1. When unit prices are stated in the Contract or have been subsequently agreed upon, by application of such unit prices.
 - 2. A lump sum price agreed upon by both the College and Contractor.
 - 3. If the change involves only a credit, the Contract Price will be reduced by the amount it would have cost the Contractor if the work omitted had not been eliminated; including overhead and profit, however, the Contractor and the subcontractor will be allowed to retain a sum not in excess of three percent (3%) for handling.
 - 4. Re-stocking fees for return of materials or supplies may be allowed on the basis of actual cost to the contractor or five percent (5%) of the original material cost, whichever is less. The College retains the option to purchase excess materials for disposal or use by the College.
 - 5. If the change involves both a credit and debit, both sums shall be shown and the two sums balanced to determine the adjusted total cost or credit. No allowance to the Contractor shall be made or allowed for loss of anticipated profits on account of any changes in the Work.

6. Unless otherwise specified, the allowable mark-up for combined overhead and profit for work performed by the Contractor with his own forces will be based upon the monetary value of the work in accordance with the following schedule:

<u>VALUE OF WORK</u>	<u>COMBINED OVERHEAD AND PROFIT</u>
\$ 0 - \$ 5,000	15%
\$ 5,001 - \$ 10,000	10%
\$ 10,001 - \$25,000	7%
Over \$25,000	Negotiated but not more than 5%

These mark-ups shall be applied to additive and deducted charges in the same manner.

7. For work performed by a subcontractor with his own forces, the percentages for combined overhead and profit for a subcontractor will be as stated in Paragraph 6 above. On work partly or solely performed by a subcontractor, the Contractor will be allowed five percent (5%) of the total cost of the subcontractor's labor, materials overhead and profit, including taxes and Insurance on labor required by statute. These mark-ups shall be applied to additive and deductive changes in the same manner.
8. The allowable mark-up described in Paragraphs 6 and 7 above shall be applied to work performed by the Contractor and first-tier subcontractors only.
9. On all changes in the work, the Contractor will be reimbursed for his expenditures for Workmen's Compensation Insurance, Social Security Taxes and Unemployment Compensation Taxes covering persons actually engaged upon the work. The actual increased cost of bonds will be reimbursed. Evidence must be furnished to support the reimbursement of additional bond expense. A fixed percentage mark-up for increased bond expense will not be acceptable. These adjustments shall be applied to additive and deductive changes in the same manner.
10. The cost of foremen and superintendents may be added only when the Change Order makes necessary the hiring of additional supervisory personnel or makes their employment for time additional to that required by the basic contract.
11. The Contractor shall be allowed the actual cost for rental of machine power tools or special equipment, including fuel and lubricants, which are necessary to execute the work required on the change, but no percentages shall be added to this cost. The rental rate is to be agreed upon by the College and the Contractor; the rate shall relate generally to the latest as filed by the Associated Equipment Distributors. Reimbursement on rental rates will not be authorized if Contractor owned equipment is used. Owned equipment will be reimbursed on the basis of actual cost.
12. The Contractor may be allowed additional time for performance of additional work. Requests for additional time must be supported by an analysis of the schedule, demonstrating that critical path work will be impacted by the additional work. No additional/extended overhead shall be provided, for performance of additional work, other than the mark-ups allowed in the preceding paragraph 6. above.
13. If the Contractor and the College cannot agree as to the extent the contract time shall be increased for extra work or the extent the Contract time shall be reduced for work omitted by the College, the increase or decrease, as the case may be, shall be determined

by the Project Manager. Any disagreement with this decision may be appealed by the Contractor under the Disputes Clause.

14. No order for change at any time or place shall in any manner or to any extent relieve the Contractor of any of his obligations under the contract.
 15. The Project Manager, with the concurrence from the College, shall have authority to make minor changes in the work not involving extra cost, and not inconsistent with the purposes of the building. Otherwise, except in any emergency endangering life or property, no extra work or changes to the work shall be done unless authorized by the College prior to any such work or changes to the work being done.
- D. The allowable percentages of cost for overhead and profit are deemed to include, but not be limited to, the following:
1. Job supervision and field office expense required by the Contract, expenses for timekeepers, clerks and watchmen, cost of correspondence of any kind, and insurance not specifically mentioned herein, all expenses in connection with the maintenance and operation of the field office, use of small tools, and cost of small trucks generally used for transporting either workmen, materials, tools or equipment to job location, and incidental job burdens. No percentage allowances will be made for maintenance or operation of Contractor's regularly established principal office, branch office or similar facilities.

3.8 UNAUTHROIZED WORK

The Contractor shall not be paid for any work not authorized in writing by the College.

End of Section 3 – Scope of Work

Section 4 – Control of the Work

4.1 AUTHORITY OF THE PROJECT MANAGER

- A. The Project Manager shall advise the College on matters involving interpretation of the plans and specifications. The Project Manager does not have authority to provide direction to the Contractor except as described herein. He will furnish with reasonable promptness such clarifications as he may deem necessary for the proper execution of the Work; such clarifications to be consistent with the contract documents and when in special instances he is authorized by the College so to act, he has authority to stop work whenever such stoppage may be necessary to insure the proper execution of the contract.
- B. Except as otherwise provided in the contract documents, all of the Project Manager's recommendations are subject to review and approval by the College.

4.2 CONFORMITY WITH CONTRACT REQUIREMENTS

- A. All work performed and all materials furnished shall be in conformity with the contract requirements.
- B. In the event the College finds the materials or the finished product in which the materials are used or the work performed are not in complete conformity with the contract requirements and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.
- C. In the event the College finds materials or the finished product in which the materials are used are not in complete conformity with the contract requirements, but have resulted in a satisfactory product the College shall then make a determination if the work shall be accepted. In this event, the College will document the basis of acceptance by issuing a contract modification which will provide for an appropriate adjustment in the contract price.

4.3 ADJACENT WORK

- A. The College shall have the right, at any time, to contract for and/or perform other work on, near, over, or under the work covered by this contract. In addition, other work may be performed under the jurisdiction of another State or County agency. The Contractor shall cooperate fully with such other Contractors and carefully fit his own work to such other work as may be directed by the Project Manager.
- B. The Contractor agrees that in event of dispute as to cooperation or coordination with adjacent Contractors the College will act as referee and decisions made by the College will be binding. The Contractor agrees to make no claims against the College for any inconvenience, delay, or loss experienced by him because of the presence and operations of other Contractors.

4.4 CONTROL BY THE CONTRACTOR

The Contractor shall constantly maintain efficient supervision of the Work, using his best skill and coordinating ability. He shall carefully study and compare all drawings, specifications, and other

instructions, and check them against conditions existing or being constructed on the project. He shall at once report to the Project Manager any error, inconsistency, or omission which he may discover.

4.5 COOPERATION WITH UTILITIES

- A. It is understood and agreed that the Contractor has considered in his bid/proposal and his schedule all of the permanent and temporary utility appurtenances in their present or relocated positions, and that no additional compensation (time or cost) will be allowed for delays, inconvenience, or damage sustained by him due to any interference from the said utility appurtenances, the operation of moving them, or the making of new connections thereto if required by the contract documents.
- B. The Contractor shall have responsibility for notifying all affected utility companies prior to performing any work on their utilities and shall cooperate with them in achieving the desired results. All damage to utility facilities caused by the Contractor's operations shall be the responsibility of the Contractor.
- C. At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, water, and power companies, or are adjacent to other property, damage to which might result in expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made by the Contractor.
- D. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication or rearrangement work may be reduced to a minimum and that services rendered by those parties will not be unnecessarily interrupted.
- E. In the event of interruption to utility services as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with the said authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

4.6 AUTHORITY AND DUTIES OF PROJECT MANAGER

- A. The Project Manager is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the contract. He is authorized to reject materials or suspend the work until any questions at issue can be referred to and decided by the College representative having authority or interest in the work. The Project Manager shall perform their duties at such times and in such a manner as will not unnecessarily impede progress on the contract.
- B. The Project Manager shall in no case act as foremen or perform other duties for the Contractor.
- C. If the Contractor refuses to make corrections, comply or suspend work, the Project Manager will advise the College and will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order suspending the work and explaining the reason for such shutdown.

4.7 INSPECTION OF THE WORK

- A. All work, including the fabrication and source of supply, is subject to observation by the Project Manager and those agencies required by law to inspect specific items.
- B. The Contractor shall provide facilities for access and inspection as required by the College.
- C. If the specifications, the College's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the College timely notice of its readiness for inspection, and if the inspection is by another authority, the date fixed for such inspection. Inspections by the College shall be made promptly and where practicable at the source of supply. Any work covered without approval of the Project Manager must, if required by the Project Manager or the College, be uncovered for examination at the Contractor's expense.

4.8 REMOVAL OF DEFECTIVE WORK

- A. All work and materials which do not conform to the requirements of the contract will be considered unacceptable.
- B. Any unacceptable or defective work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist shall be removed and replaced by work and materials which shall conform to the contract requirements or shall be remedied otherwise in an acceptable manner authorized by the Project Manager.
- C. Upon failure on the part of the Contractor to comply promptly with any order of the Project Manager, made under provision of this section, the Project Manager shall have authority to cause defective or unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to cause the costs to be deducted from any monies due or to become due the Contractor under this contract.

4.9 MAINTENANCE OF WORK DURING CONSTRUCTION

- A. The Contractor shall maintain the work during construction and until acceptance. This maintenance shall be continuous and effective, prosecuted with adequate equipment and forces to the end that all parts of the work be kept in satisfactory condition at all times and protected from damage of any kind from external sources.
- B. Particular attention shall be given to drainage, both permanent and temporary. The Contractor shall use all reasonable precautionary measures to avoid damage or loss that might result from accumulations and concentrations of drainage water, and material carried by such waters and such drainage shall be diverted or dispensed when necessary to prevent damage to excavation, embankments, surfaces, structures, or property. Suitable measures shall be taken by the Contractor to prevent the erosion of soil in all construction areas where the existing ground cover has been removed. Such measures shall be in compliance with the requirements of any governmental entity having jurisdiction.
- C. All cost of maintenance work during construction and until final acceptance shall be included in the base bid and the Contractor will not be paid any additional amount for such work.

- D. In the event that the Contractor's work is halted by the College or the Project Manager for failure to comply with the provisions of the contract, the Contractor shall maintain the entire project as provided herein, and provide such ingress and egress for local residents or tenants adjacent to the project site, for tenants of the project site, and for the general public as may be necessary during the period of suspended work or until the Contractor has been declared in default.
- E. On projects where traffic flow is maintained, the Contractor shall be responsible for repair and restoration of all traffic damages to the work, either partially or totally completed, until final acceptance of the work, or (if applicable) final acceptance of relevant phases of the work by the College.

4.10 FAILURE TO MAINTAIN ENTIRE PROJECT

Failure on the part of the Contractor, at any time, to comply with the provisions of Paragraph 4.8 shall result in the Project Manager notifying the Contractor to comply with the required maintenance provision. In the event that the Contractor fails to remedy unsatisfactory maintenance within twenty four (24) hours after receipt of such notice, the College will immediately proceed with adequate forces and equipment to maintain the project, and the entire cost of this maintenance will be deducted from monies due the Contractor.

4.11 COLLEGE'S RIGHT TO DO WORK

If the Contractor should neglect to prosecute the Work properly or fail to perform any provision of this contract, the College after three (3) days' written notice to the Contractor may make good such deficiencies and may deduct the cost thereof from the monies then or thereafter due the Contractor.

End of Section 4 – Control of the Work

Section 5 – Materials

5.1 GENERAL

- A. All materials: shall meet all manufacturers' quality requirements unless otherwise specifically directed in the contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the Project Manager in writing of the sources from which he proposes to obtain all materials requiring approval, testing, inspection, or certification prior to incorporation into the work as soon as possible after receipt of notification of award of the contract.
- B. Approval: All materials are subject to the Project Manager's approval as to conformity with the specifications, quality, design, color, etc. No work for which approval is necessary shall be used until written approval is given by the Project Manager. Approval of a subcontractor or supplier as such does not constitute approval of material which is other than that included in the specifications.
- C. New Materials: Unless otherwise specified, all materials shall be new. Old materials must not be used as substitutes for new, regardless of condition or repair, unless approved in writing by the Project Manager.
- D. Quality: Unless otherwise specified, all materials shall be of the best quality of the respective kinds.
- E. Samples: The Contractor shall furnish for approval all samples as directed. The materials used shall be the same as the approved samples.
- F. Proof of Quality: The Contractor shall, if requested, furnish satisfactory evidence as to the kind and quality of materials either before or after installation. He shall pay for any tests or inspections called for in the specifications and such tests as may be deemed necessary for "substitutions", as set forth in paragraph 5.2 of these General Conditions.
- G. Tests: If the contract documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the timely notice of its readiness so the Project Manager may observe such inspection, testing, or approval. The Contractor shall bear all costs of such inspections, tests, or approvals.
- H. Standard Specifications: When no specification is cited and the quality, processing, composition, or method of installation of a thing is only generally referred to, then:
 - 1. For items not otherwise specified below, the latest edition of the applicable American Society for Testing Materials specification is the applicable specification.
 - 2. For items generally considered as plumbing and those items requiring plumbing connections, the applicable portions of the latest edition of the International Building Code (IBC) are the applicable specification.
 - 3. For items generally considered as heating, refrigerating, air conditioning, or ventilating, the applicable portions of the latest edition of the A.S.H.R.A.E. Handbook published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., are the applicable specification.

4. For items generally considered as site work, the applicable portions for the Maryland S.H.A. Standard Specifications are the applicable specification.
5. For items generally considered as electrical, the applicable provisions of the latest edition of the National Electrical Code are the applicable specification.
6. For items generally considered as fire protection, the applicable portions of the latest edition of the National Fire Protection Association Code are the applicable specification.

5.2 STORAGE AND HANDLING OF MATERIALS

- A. Materials shall be so stored as to assure the preservation of their quality and acceptability for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the project site may be used for storage purpose and for the placing of the Contractor's plant and equipment; such storage areas must be restored to their original condition by the Contractor at his expense.
- B. Contractor shall confine his tools and equipment and the storage of materials to the area delineated in the contract documents as the "Limit of Contract".
- C. He shall not load or permit any part of the structure to be loaded with a weight that will endanger the safety of the structure or any part thereof.
- D. Paints:
 1. Oil base paints and inflammable liquids shall not be stored in large quantities on the project. Containers shall be limited to five (5) gallon size. Any liquid with a flash point of less than one hundred (100°F) shall be contained in safety cans, UL approved. Liquid with a higher flash point shall be stored in rigid cans.
 2. Oily rags, waste, etc., must be removed from the work site at the close of each working day.

5.3 SUBSTITUTIONS

- A. Should the Contractor desire to substitute another material for one or more specified by name he shall apply, in writing, for such permission and state the credit for extra cost involved by the use of such material. The Project Manager will not consider the substitution of any material different in type or construction methods unless such substitution effects as benefit to the College.
- B. Contractor shall not submit for approval materials other than those specified without a written statement that such a substitution is proposed. Approval of a "substitute material", by the Project Manager when the Contractor has not designated such material as a "substitute", shall not be binding on the College, or release Contractor from any obligations of his contract unless the College approves such "substitution" in writing.

5.4 APPROVED EQUALS

The terms "Or Equal", "Equal", "Approved Equal" are used as synonyms throughout the specifications. They are implied in reference to all named manufacturers in the specifications

unless otherwise stated. Only materials fully equal in all details will be considered. The College is the final judge as to equality. The College does not represent or warrant under any circumstances, including by use of the words “or equal”, that there exists an equal to any item specified.

5.5 CONTRACTOR’S OPTIONS

When several products or manufacturers are named in the specifications for the same purpose or use, then the Contractor may select any of those so named. However, all of the units required for, and used in, the project must be the same in material and manufacture.

End of Section 5 – Materials

Section 6 – Legal Relations and Responsibilities

6.1 INSURANCE REQUIREMENTS

A. Insurance During Construction

1. Insurance requirements shall be in compliance with the contract documents for the agreement.

6.2 COMPLIANCE WITH LAWS

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any moneys due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

6.3 PERMITS AND LICENSES

- A. When necessary, the College will file with the appropriate local authority, drawings and specifications and any pertinent data reasonably proper for their information. The Contractor will be required to pay all necessary fees to local authorities for inspection or for the privilege or right to execute the work as called for in the contract documents and he shall include the cost of said fees in his base proposal or bid.
- B. The Contractor must be currently licensed, bonded and insured in the area where the work is to be performed; and shall provide a copy of its current license to the College with its proposal or bid.

6.4 DISPUTES

- A. This contract is subject to the AACC Procurement Policies and Procedures.
- B. Except as otherwise provided in this contract or by law, all disputes arising under or as a result of a breach of this contract that are not disposed of by mutual agreement shall be resolved in accordance with this clause.
- C. As used herein, claim means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to a claim for the purpose of this clause.

- D. Within thirty (30) days after Contractor knows or should have known of the basis for a claim relating to this contract, contractor shall file a written notice of claim with the Purchasing Agent.
- E. Contemporaneously with, or within thirty (30) days after, the filing of a notice of claim, Contractor shall submit the written claim to the Purchasing Agent. If Contractor so requests, the Purchasing Agent, on conditions the Purchasing Agent deems satisfactory to the unit, may extend the time in which Contractor must submit the claim. An example of when a Purchasing Agent may grant an extension includes situations in which the Purchasing Agent finds that a contemporaneous or timely cost quantification following the filing of the notice of claim is impossible or impractical.
- F. The claim shall set forth all the facts surrounding the controversy. Contractor, at the discretion of the Purchasing Agent, may be afforded an opportunity to be heard and to offer evidence in support of the claim.
- G. The Purchasing Agent shall mail or deliver written notification of the final decision within:
 - (1) Ninety (90) days after the Purchasing Agent receives the claim if the claim is an amount for which the Appeals Board accelerated procedure, set forth in COMAR 21.10.06.12, may be used;
 - (2) One hundred eighty (180) days after the Purchasing Agent receives the claim for a claim not covered under 'G(1) of this regulation; or
 - (3) A longer period that the Purchasing Agent and Contractor agree to in writing.
- H. The final decision may award a contract claim only for those expenses incurred not more than twenty (20) days before Contractor was initially required to have filed the notice of claim.
- I. The Purchasing Agent's decision is the final action of the College. If the Purchasing Agent fails to render a final decision within the time required, Contractor may deem the failure to be a final decision not to pay the claim.
- J. If the final decision grants the claim in part and denies the claim in part, the College shall pay Contractor the undisputed amount. Payment of the partial claim is not an admission of liability by the College and does not preclude the College from recovering the amount paid if a subsequent determination modifies the final decision.
- K. Contractor may file a written appeal with the Maryland State Board of Contract Appeals within thirty (30) days of receipt of notice of the decision.
- L. Pending resolution of a claim, Contractor shall proceed diligently with the performance of the contract in accordance with the Purchasing Agent's decision.

End of Section 6 – Legal Relations and Responsibilities

Section 7 – Prosecution and Progress of the Work

7.1 NOTICE TO PROCEED

After the contract has been executed and all required documents received, the College will issue to the Contractor a "Notice to Proceed". Any preliminary work started or materials ordered before receipt of the "Notice to Proceed", shall be at the risk of the Contractor.

7.2 EXECUTION OF WORK

- A. The Contractor shall so schedule the work as to ensure efficient and uninterrupted progress and to hold to an absolute minimum the cutting and patching of new work. All cutting, patching, and digging necessary to the execution of the work is included.
- B. The Contractor shall so schedule the construction performed by each group or trade that each installation or portion of the construction shall member with and join with every other new or old work as required for a complete installation, all according to accepted good construction practice.

7.3 PUBLIC CONVENIENCE AND SAFETY

The Contractor at all times shall conduct the work in such a manner as to create the least practicable obstruction to all forms of traffic. The convenience of the general public, tenants, and of the residents along and/or adjacent to the improvement shall be respected. Material stored upon the project shall be placed so as to cause a minimum of obstruction to the public. The Contractor shall, unless otherwise specified, provide and maintain in passable condition such temporary access roads and bridges as may be necessary to accommodate traffic diverted from the project under construction, or using the project under construction and shall provide and maintain in a safe condition temporary approaches to, and crossings of, the project. Existing facilities planned to be removed, but which might be of service to the public during construction are not to be disturbed until other and adequate provisions are made. Fire hydrants on or adjacent to the project shall be kept accessible to fire apparatus at all times, and no material or obstruction shall be placed within fifteen (15) feet of any such hydrant. Work closed down for the winter or at any other times shall be left entirely accessible at all points to fire apparatus. All footways, gutters, sewer inlets, and portions of the project the work under construction shall not be obstructed more than is absolutely necessary.

7.4 BARRICADES AND WARING SIGNS

- A. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals, signs, and other control devices, and shall take all necessary precautions for the protection of the work and safety of the public. All highways and other facilities closed to traffic shall be protected by effective barricades, and obstructions shall be illuminated during hours of darkness with electric lights.
- B. The Contractor shall erect warning signs in advance of any place on the project where operations may interfere with the use of the facility by vehicular or pedestrian traffic, and at all other points where the new work crosses or coincides with an existing roadway or traffic lane(s). Such warning signs shall be constructed and erected in accordance with the FHWA Manual on Uniform Traffic Control Devices or as directed.

- C. In cases where the Contractor's sequence of operations results in grade differentials which would be hazardous to vehicular or pedestrian traffic, the Contractor will, at the direction of the Project Manager and at no additional cost to the College provide suitable substantial guard rail to the extent determined by the Project Manager.

7.5 PRESERVATION PROTECTION AND RESTORATION OF PROPERTY

- A. The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the College property from injury or loss arising in connection with this contract. He shall repair and indemnify against any such damage, injury, or loss, except such as may be directly due to errors in the contract documents or caused by agents or employees of the College. He shall adequately protect adjacent property as provided by law and the contract documents.
- B. The Contractor shall box all trees which are liable to injury by the moving, storing, and working up of materials. He shall use no tree for any attachment or anchorage.
- C. The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and falling materials.
- D. In any emergency affecting the safety of life or of the work or of the adjoining property, the Contractor, without special instruction or authorization is hereby permitted to act, at his discretion, to prevent such threatened loss or injury. If he is specifically instructed by the Project Manager to do work in an emergency, the Contractor shall do the work and will be paid compensation as outlined in Section 3.06.
- E. No such extension shall be made for delay occurring more than five (5) days before claim therefore is made in writing to the architect. In the case of continuing cause of delay, only one claim is necessary.

7.6 PROGRESS SCHEDULE

- A. The Contractor shall prepare a construction schedule (Critical path Method) in accordance with the requirements of the Specifications. If no additional specification is included, the schedule shall be prepared using software acceptable to the College and shall comply with all requirements specified in this section.
- B. A detailed Construction Schedule shall be submitted within the format and timeframe required in the Specifications, or prior to the submittal of the first invoice, whichever is earlier.
- C. The construction schedule shall be coordinated with the schedule of values and the schedule of submittals.
- D. Contractor shall include in his schedule an allowance for adverse weather as set forth in the following table:

Required Work Day Allowance for Adverse Weather Based on a Five (5) Day Work Week							
Month	Days	Month	Days	Month	Days	Month	Days
January	4	April	3	July	2	October	3
February	3	May	2	August	2	November	3
March	3	June	2	September	2	December	4

These days shall apply to actual days of rain, snow or ice which occurs during the work day hours. Wet soil shall not be an acceptable reason for a weather claim. Cold weather shall not be an acceptable reason for a weather claim unless the high temperature is below 20 degrees F. Contractor is expected to continue work in cold weather using cold weather procedures. Contractor is expected to remove snow and ice as required to continue work the day following a storm.

- E. The Contractor shall submit, in draft form, updates of the construction schedule and application for payment/invoice to the Project Manager for approval prior to final submission of application for payment.
- F. If the contractor fails to prepare and submit to the College a schedule before the existence of a delay, then no claim for extra cost due to delay in the work shall be recognized or asserted.

7.7 SUSPENSION OF WORK

- A. The Project Manager unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as he may determine to be appropriate for the convenience of the College. The Contractor shall take reasonable and appropriate action during the period of suspension of work to minimize expenses incurred as a result of the suspension order.
- B. If the performance of all or any part of the work is for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Project Manager in the administration of the contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an equitable adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by an unreasonable suspension, delay, or interruptions, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruptions to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.
- C. No claim under this clause shall be allowed (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Project Manager in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of a suspension, delay, or interruption, but not later than the date of final payment under the contract.

7.8 TERMINATION FOR CONVENIENCE OF THE COLLEGE

- A. The performance of work under this contract may be terminated by the College in accordance with this clause in whole or from time to time in part, whenever the Project Manager shall determine that such termination is in the best interest of the College. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.
- B. After receipt of a Notice of Termination and except as otherwise directed by the Project Manager, the Contractor shall:
 - 1. Stop work under the contract on the date and to the extent specified in the Notice of Termination;
 - 2. Place no further orders on subcontracts for materials, services, or facilities except as may be necessary for completion of the portion of the work under the contract as is not terminated;
 - 3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
 - 4. Assign to the College in the manner, at the times, and to the extent directed by the Project Manager, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the College shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - 5. Settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Project Manager to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;
 - 6. Transfer title and deliver to the College in the manner, at the times, and to the extent, if any, directed by the Project Manager, (a) the fabricated or unfabricated parts, work in progress, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (b) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the College;
 - 7. Use his best effort to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Project Manager, any property of the types referred to in (6) above; provided, however, that the Contractor (a) shall not be required to extend credit to any purchaser, and (b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Project Manager; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the College to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Project Manager may direct;

8. Complete performance of such part of the work as may not have been terminated by the Notice of Termination; and
 9. Take such action as may be necessary or as the Project Manager may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the College has or may acquire an interest. The Contractor may submit to the Project Manager a list, certified as to quantity and quality, of any or all items of termination inventory not quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Project Manager, and may request the College to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the College shall accept title to such items and remove them or enter into a storage agreement covering the same, provided, that the list submitted shall be subject to verification by the Project Manager upon removal of the items or if the items are stored, within forty five (45) days from the date of submission of the list and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.
- C. After receipt of a Notice of Termination, the Contractor shall submit to the Project Manager his termination claim, in the form and with certification prescribed by the Project Manager. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Project Manager, upon request of the Contractor made in writing within such one year period or authorized extension thereof. However, if the Project Manager determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one year period or any extension thereof. Upon failure of the Contractor to submit his termination claim with the time allowed, the Project Manager may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- D. Subject to the provisions of Paragraph C, the Contractor and the Project Manager may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price of work not terminated. The contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing in Paragraph E of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Project Manager to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph.
- E. In the event of the failure of the Contractor and the Project Manager to agree, as provided in Paragraph D, upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Project Manager shall pay to the Contractor the amounts determined by the Project Manager as follows, but without duplication of any amounts agreed upon in accordance with Paragraph D.

1. With respect to all contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:
 - a. The cost of such work;
 - b. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in paragraph B.5 above, exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the subcontractor before the effective date of the Notice of Termination of work under this contract, which amounts shall be included in the cost on account of which payment is made under a. above and;
 - c. A sum, as profit on a. above, determined by the Project Manager, to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision c. and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
2. The reasonable cost of the preservation and protection of property incurred pursuant to Paragraph B. 9. and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this contract.

The total sum to be paid to the Contractor under 1. above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage and except to the extent that the College shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (1) above, the fair value, as determined by the Project Manager, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the College, or to a buyer pursuant to paragraph B.7.

- F. Costs claimed, agreed to, or determined pursuant to C., D., E. and I. hereof shall be in accordance with the AACC Policies and Procedures as in effect on the date of this contract.
- G. The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes", from any determination made by the Project Manager under Paragraph C., E., or I. hereof, except that if the Contractor has failed to submit his claim within the time provided in Paragraph C. or I. hereof, and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Project Manager has made a determination of the amount due under paragraph C., E., or I. hereof, the College shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Project Manager, or (ii) if an appeal has been taken, the amount finally determined on such appeal.
- H. In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments or account theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the College may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor

or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the College.

- I. If the termination hereunder be partial, the Contractor may file with the Project Manager a claim for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the Project Manager.
- J. The College, may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Project Manager the aggregate of such payments shall be within the amount to which the Contractor shall be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the College on demand, together with interest computed at the legal rate for the period from the date of such excess payment is received by the Contractor to the date on which the excess is repaid to the College; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of the retention or disposition, or such later date as determined by the Project Manager by reason of the circumstances.
- K. Unless otherwise provided in this contract or by applicable statute, the Contractor shall, from the effective date of termination until the expiration of three (3) years after final settlement under this contract, preserve and make available to the College at all reasonable times at the office of the Contractor but without direct charge to the College all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder or to the extent approved by the Project Manager, photographs, or other authentic reproductions thereof.

7.9 TERMINATION FOR DEFAULT – DAMAGES FOR DELAY – TIME EXTENSIONS

- A. If the Contractor refuses or fails to prosecute the Work or any separable part thereof, with such diligence as shall insure its completion within the time specified in this contract or any extension thereof or fails to complete said work within this time, the College may, by written notice to the Contractor, terminate his right to proceed with the work or the part of the work as to which there has been delay. In this event, the College may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work, the materials, appliances, and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the College resulting from his refusal or failure to complete the work within the specified time.
- B. If fixed and agreed liquidated damages are provided in the contract and if the College so terminates the Contractor's right to proceed, the resulting damage shall consist of such

- liquidated damages until a reasonable time as may be required for final completion of the work together with any increased costs occasioned the College in completing the work.
- C. If fixed and agreed liquidated damages are provided in the contract and if the College does not so terminate the Contractor's right to proceed, the resulting damage shall consist of these liquidated damages until the work is completed or accepted.
- D. The Contractor's right to proceed may not be so terminated nor the Contractor charged with resulting damages if:
1. The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the College in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the College, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
 2. The Contractor, within ten (10) days from the beginning of any such delay (unless the Project Manager grants a further period of time before the date of final payment under the contract), notifies the Project Manager in writing of the causes of delay. The Project Manager shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Disputes" clause of this contract.
- E. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in fault under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the College, be the same as if the notice of termination had been issued pursuant to the termination for convenience clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the College, the contract shall be equitably adjusted to compensate for the termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".
- F. The rights and remedies of the College provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

7.10 PARTIAL ACCEPTANCE

- A. If during the construction of work the College desires to occupy any portion of the project, the College shall have the right to occupy and use those portions of the project which in the opinion of the Project Manager can be used for their intended purpose; provided that the conditions of occupancy and use are established and the responsibilities of the Contractor and the College for maintenance, heat, light, utilities, and insurance are mutually agreed to by the Contractor and the College.

- B. Partial occupancy shall in no way relieve the Contractor of his responsibilities under the contract.

7.11 LIQUIDATED DAMAGES

- A. Time is an essential element of the contract and it is important that the work be vigorously prosecuted until completion.
- B. For each day that any work shall remain uncompleted beyond the time(s) specified elsewhere in the contract, the Contractor shall be liable for liquidated damages in the amount(s) provided for in the solicitation, provided, however, that due account shall be taken of any adjustment of specified completion time(s) for completion of work as granted by approved change orders.

7.12 SUBSTANTIAL COMPLETION AND FINAL INSPECTION

- A. When the work is substantially completed, the Contractor shall notify the Project Manager that the work will be ready for final inspection and test on a definite date. Sufficient notice shall be given to permit the Project Manager to schedule the final inspection.
- B. On the basis of the inspection, if the Project Manager determine that the work is substantially complete and the project can be occupied or used for its intended purpose, the Project Manager shall establish the date of substantial completion and shall state the responsibilities of the College and the Contractor for maintenance, heat, utilities, and insurance, and shall fix the time for which the guarantee will begin.
- C. The Project Manager shall fix the time within which the Contractor shall complete any remaining items of work which he indicated on a list prepared by the Project Manager. If the Contractor fails to complete the remaining items so listed in the time stipulated the College shall have the undisputed right without further notice to complete the work and deduct any cost incurred from any monies retained under the contract.
- D. Final payment shall not be made until all contract work is complete to the satisfaction of the College.

7.13 CLEANING UP

The Contractor shall at all times keep the construction area, including storage areas used by him, free from accumulations of waste materials or rubbish and prior to completion of the work remove any rubbish from the premises and all tools, scaffolding, equipment, and materials not the property of the College. Upon completion of the construction, the Contractor shall leave the work and premises in a clean, neat, and workmanlike condition satisfactory to the Project Manager.

7.14 GUARANTEES

The Contractor guarantees for a two (2) year period (unless another period is specified), commencing on the date fixed by the parties:

- A. That the work contains no faulty or imperfect material or equipment or any imperfect, careless, or unskilled workmanship.

- B. That all mechanical and electrical equipment, machines, devices, etc., shall be adequate for the use to which they are intended, and shall operate with ordinary care, and attention in a satisfactory and efficient manner.
- C. That he will re-execute, correct, repair, or remove and replace with proper work, without cost to the College, any work found not to be as guaranteed by this Section. The Contractor shall also make good all damages caused to other work or materials in the process of complying with this Section.

7.15 NOTICE TO COLLEGE OF LABOR DISPUTES

- A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Project Manager.
- B. The Contractor agrees to insert the substance of this clause, including this Paragraph B., in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime Contractor, as the case may be, of all relevant information with respect to such dispute.

End of Section 7 – Prosecution and Progress of the Work

Section 8 – Payments

8.1 SCOPE OF PAYMENT

- A. Payments are made on the valuation of Work accomplishment and on account of materials delivered on the site, for incorporation in the Work which are suitably stored and protected.
- B. With prior College approval, payments may also be made on account of materials or equipment for incorporation in the Work stored at some off-site location; such payment to be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the College to establish the College's title to such materials or equipment or otherwise protect the College's interest including applicable insurance and transportation to site.
- C. In applying for payments the Contractor shall submit a draft application for payment/invoice to the Project Manager, based upon the schedule, itemized in such form and supported by such evidence as the College may require, showing the Contractor's right to the payment claimed. Upon approval, Contractor shall provide original application of payment/invoice. Each invoice shall prominently display the Contractor's Federal Employers Tax Identification Number or (if he has no such number) his social security number, and the contract and project number.
 - 1. In applying for all payments the Contractor shall pay all subcontractors, vendor and material suppliers within ten (10) calendar days of having received payment from the College. The Contractor shall submit in addition to the above a certificate that he will pay:
 - a. All labor to date.
 - b. All vendors and material suppliers in full for all items received.
 - c. All subcontractors in full, less the retained amount.
- D. No certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the College shall be an acceptance of any work or materials not in accordance with this contract.

8.2 ALLOWANCES

Whenever an allowance is mentioned in the specifications, then the Contractor shall include in his contract sum the entire amount of such specified allowances. The expenditure of these allowances is at the College's direction. However, the allowance expenditure is limited to items properly inferable from the title of the allowance and as included within the scope and purpose identified in the specifications. Unexpended balances are to revert to the College. Prior to receiving authorization from the College to expend funds covered by an allowance, the Contractor shall submit a detailed cost proposal outlining all costs, including labor, material, overhead and profit.

8.3 DEDUCTIONS FOR UNCORRECTED WORK

If the College deems it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price shall be made therefore.

8.4 PAYMENTS WITHHELD

- A. The College may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any certificate to such extent as may be necessary to protect the College from loss on account of:
 - 1. Defective work not remedied.
 - 2. Claims filed or reasonable evidence indicating probable filing of claims.
 - 3. Failure of the Contractor to make payments properly to subcontractors for material or labor.
 - 4. A reasonable doubt that the contract can be completed for the balance then unpaid.
 - 5. Damage to another Contract.
- B. When the above grounds are removed, payment shall be made for amounts withheld because of them.

8.5 CORRECTION OF WORK BEFORE FINAL PAYMENT

- A. The Contractor shall promptly remove from the premises all materials condemned by the Project Manager as failing to conform to the contract, whether incorporated in the work or not. The Contractor shall promptly replace and re-execute his own work in accordance with the contract and without expense to the College and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.
- B. If the Contractor does not remove such condemned work and materials within a reasonable time, fixed by written notice, the College may remove them and may store the materials at the expense of the Contractor. If the Contractor does not pay the expense of such removal within ten (10) days time thereafter, the College may, upon ten (10) days notice, sell such materials and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

End of Section 8 – Payments

Section 9 – Employees, Subcontractors & Work Conditions

9.1 EMPLOYEES AND WORKMANSHIP

- A. Qualification of Employees: Only personnel thoroughly trained and skilled in the task assigned them may be employed on any portion of the work. Any employee found to be unskilled or untrained in his work shall be removed from the work.
- B. Legal documentation of workers: The Contractor must employ only legally documented workers. Noncompliance with this County policy as a company will lead to immediate dismissal from the project.
- C. Licensed Employees: When Municipal, County, State, or Federal laws require that certain personal (electricians, plumbers, etc.) be licensed, then all such personal employed on the work shall be so licensed.
- D. Quantity of Labor: The Contractor shall employ on the work, at all times, sufficient personnel to complete the work within the time stated in the contract.
- E. Work Areas: The Contractor shall confine the operations of his employees to the limits as provided by law, ordinance, permits, or directions of the College. Generally, the work area will be the same as the “Limit of Contract” line indicated in the construction documents.
- F. Methods and Quality: All methods and procedures and results are subject to the Project Manager’s approval as to finished result to be obtained. However, this is not to be interpreted as placing upon the Project Manager any responsibility for the “work” management which is solely the responsibility of the Contractor.
- G. Point of Contact: The Contractor shall keep on the work, at all times during its progress, a competent English-speaking superintendent and any necessary assistants, all approved by the College prior to commencement of the work. The Contractor shall also provide a project manager dedicated to each project awarded to the contractor by the College. The Contractor shall submit in writing to the College the names of the persons it intends to employ as project manager and superintendent for the execution of this contract with a statement of each individual’s qualifications. This data will be reviewed by the College and an approval or rejection given in writing. Persons who have previously proved unsatisfactory on work executed for the College or who are without proper qualifications, will not be approved. Should it be necessary to change the project manager or the superintendent, this procedure will be repeated. A single project manager or superintendent will be permitted to manage two or more jobs located at the same campus or campus facility or in close proximity to each other only when approved by the College in writing. The project manager and the superintendent shall represent the Contractor. All directions given to the project manager or the superintendent shall be as binding as if given to the Contractor. Important directions shall be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case.
- H. Discipline: The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ or permit to remain on the work any unfit person. He shall enforce all instructions relative to use of water, heat, power, no smoking, and control and use of fires and required by law, and the College. Employees must not be allowed to loiter on the premises before or after working hours.

- I. Campus Policies: The contractor shall at all times enforce campus policies as follows:
 - a. All workers shall be clothed in long pants, shirts with sleeves and hard shoes. No distasteful logos shall be on the clothing and the employee will have a professional appearance. No tennis shoes are allowed. Safety apparel is to be utilized as is job appropriate.
 - b. Radios or similar devices are not allowed in the workplace.
 - c. Workers will obtain parking passes for their vehicles as instructed by the Project Manager. Vehicles will not be parked in undesignated areas or in the landscaping.
 - d. Courtesy shall be expected in the workplace. No foul or vulgar language will be tolerated. At no time are workers to have contact with students.
 - e. The cafeteria and kiosks are not to be utilized by the Contractor unless approved by the Project Manager.
 - f. The Contractor shall not use any College assets including but not limited to ladders, brooms, vacuums, paper goods, trash bags and tools.
 - g. The Contractor shall not use the restroom facilities of the College unless approved by the Project Manager.
 - h. The Contractor shall not use College telephones or computers or other technology equipment.
 - i. The Contractor must protect College utilities at all times.
- J. Employee Safety: The Contractor shall designate a responsible member of his organization, on the Work, whose duty it shall be, in addition to his other duties, to prevent accidents and to enforce the standards of 9.3 of these conditions. The name and position of the person so designated shall be reported to the College with a copy to the Project Manager, by the Contractor at the commencement of the work.
- K. Removal of Employees: Should any employee of the Contractor, or its subcontractors and suppliers, be complained of by the College for cause, the Contractor shall remove the employee from the work and replace the employee with an individual acceptable to the College and qualified in all respects to perform the work.

9.2 NON-DISCRIMINATION IN EMPLOYMENT

- A. The Contractor agrees (a) not to discriminate in any manner against any employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.
- B. If the Contractor willfully fails to comply with the non-discrimination provision, the College may, where the contract is still executory in part, compel continued performance of the contract, but it shall be liable only for the reasonable value of services performed and materials supplied from the date that the breach of contract was discovered or should have been discovered, and any sums previously paid by the College under the contract shall be set off against sums to become due as the contract is performed.

9.3 SUBCONTRACTS

- A. The Contractor agrees that he is as fully responsible to the College for the acts and omissions of his subcontractor and of persons either directly reemployed by them, as he is for the acts and omissions of persons directly employed by him.
- B. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the College and nothing in the contract documents is intended to make the subcontractor a beneficiary of the contract between the College and the Contractor.

9.4 CONSTRUCTION SAFETY AND HEALTH STANDARDS

It is a condition of this contract and shall be made a condition of each subcontract entered into pursuant to this contract, that the Contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, and determined under construction safety and health standards, laws and regulations of the locality in which the work is done, the State, and the Federal Government.

9.5 DRUG AND ALCOHOL FREE WORKPLACE

The Contractor warrants that the Contractor shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Contractor shall remain in compliance throughout the term of the Contract.

9.6 SEXUAL HARASSMENT

- A. Anne Arundel Community College is committed to maintaining a working and learning environment in which students, faculty, and staff can develop intellectually, professionally, personally, and socially. Such an environment must be free of intimidation, fear, coercion, and reprisal. The College prohibits sexual harassment. Sexual harassment may cause others unjustifiable offense, anxiety, and injury. Sexual harassment threatens the legitimate expectation of all members of the College community that academic or employment progress is determined by the publicly stated requirements of job and classroom performance, and that the College environment will not unreasonably impede work or study.
- B. Sexual harassment by College faculty, staff, and students is prohibited. This constitutes Campus policy. Sexual harassment may also constitute violations of criminal and civil laws of the State of Maryland and the United States. For the purpose of this Campus Policy, sexual harassment is defined as: (1) unwelcome sexual advances; or (2) unwelcome requests for sexual favors; and (3) other behavior of a sexual nature where:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a College-sponsored educational program or activity; or
 - 2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile, or offensive educational or working environment.
- C. The policy described above will apply to all contractors, subcontractors, suppliers and others employed to do work on the campus for purpose of this project. In addition to the policies stated above, the College will not tolerate:
1. Lewd remarks or suggestive sounds, such as whistling or wolf calls.
 2. Unwanted physical contact.
 3. Persistent and offensive sexual jokes or comments.
- D. Acts of sexual harassment will not be tolerated from any persons related to the performance of this contract. Persons exhibiting such behavior will be immediately removed by the Contractor from the job site as directed by the College and will be replaced with competent personnel by the contractor at no additional cost to the College.

9.7 NON-HIRING OF EMPLOYEES

No employee of the College whose duties as such employee includes matters relating to or affecting the subject matter of this contract, shall, during the pendancy and term of this contract and while so employed, become or be an employee of the firm or any entity that is a subcontractor on this contract.

End of Section 9 – Employees, Subcontractors & Work Conditions